

REMARKS

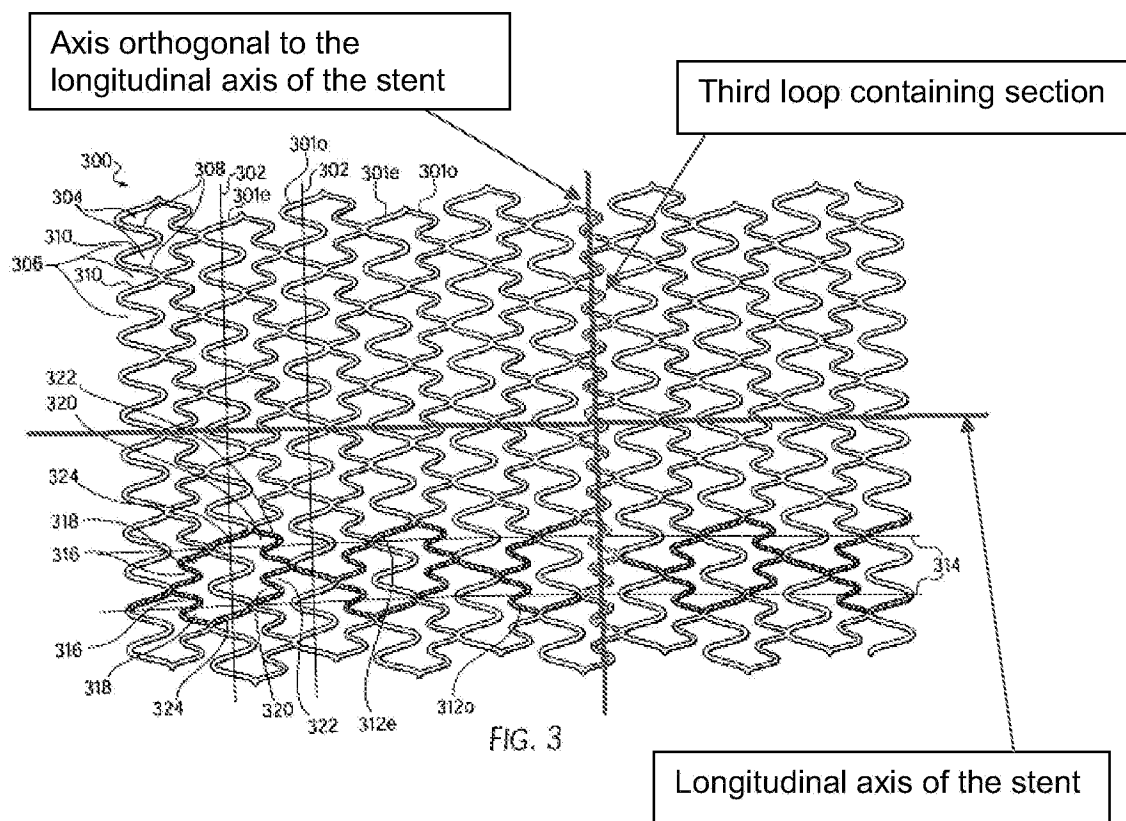
Claims 1, 3, 6, 8, 11, 26, 28, 42-47 and 49 are currently pending. Claims 1, 6, 11, 26, 28, and 49 have been amended as discussed during the interview of July 23, 2008. Claims 1 and 49 have been amended to recite that the first, second and third loop containing sections each have an axis that is orthogonal or perpendicular to the longitudinal axis of the stent and each extend around the entire circumference of the stent. Likewise, Claim 6 has been amended to recite that the first and second circumferential band extend around the entire circumference of the stent along parallel axes. Claim 11 has been amended to recite a stent formed entirely of circumferential loops extending around the entire circumference of the stent such that the stent consists essentially of triangular cells consisting of loop containing sections, said sections defined by the connection points to non-adjacent circumferential bands. Claim 26 has been amended to recite that the stent consists of a pattern of uniform cells as described thereunder. Lastly, Claim 28 has been amended to correct a typographical error.

No new matter has been added. No new issues of patentability are raised by the instant amendments. Support for these amendments is found throughout the specification, inter alia on pages 10, 12, and 14-15, as well as Figures 3 and 5.

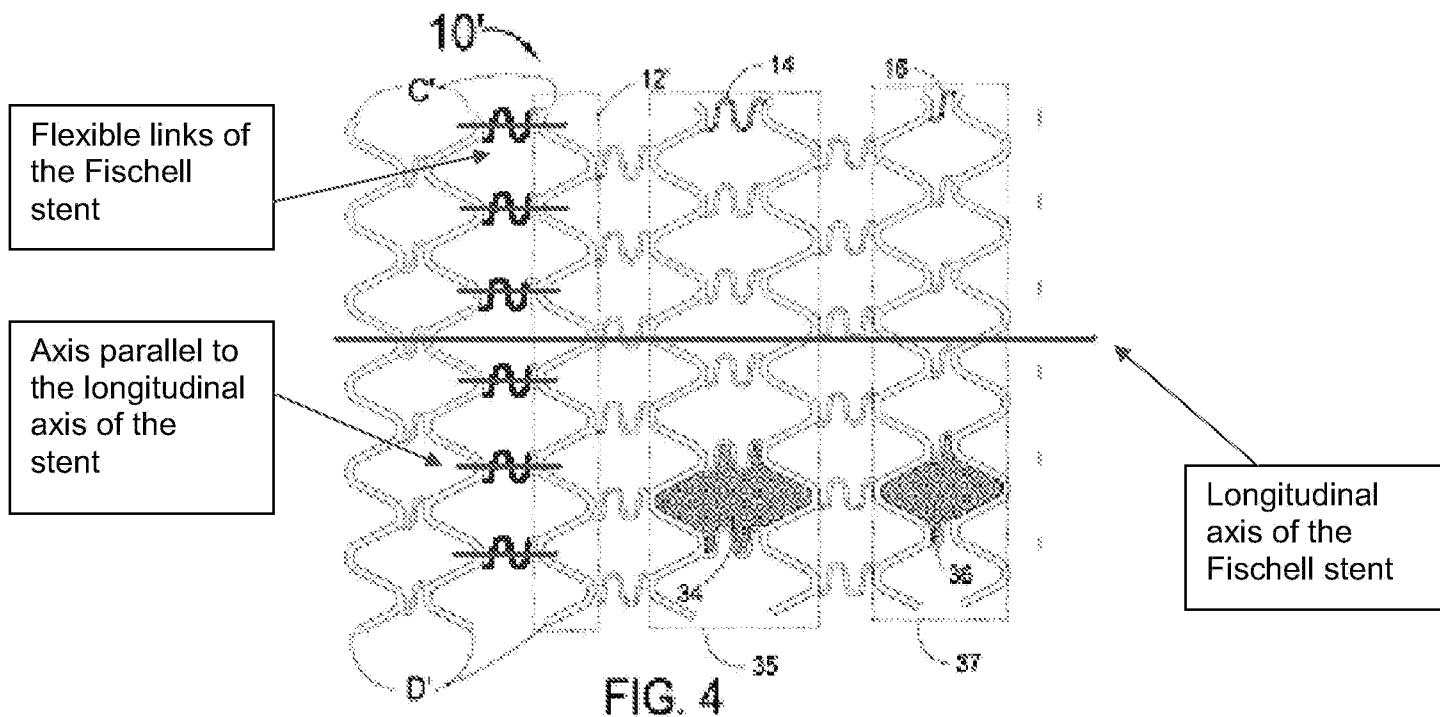
Response To Rejection Under 35 U.S.C. §102(e) Based On Fischell

Claims 1, 6, 11, 42-47 and 49 have been rejected under 35 U.S.C. §102(e) as anticipated by Fischell (6,190,403). Applicants respectfully disagree with this rejection.

As discussed with the Examiner during the interview of July 23, 2008, and following the Examiner's suggestion made during that interview, the present Claim 1 has been amended to indicate that the disclosed stent has a singular longitudinal axis, which necessarily extends through the center of the stent and along which at any point there is one possible orthogonal axis that extends around the circumference of the stent. The third loop containing section taught by the present claims as amended are formed of a single, continuous, generally sinusoidal pattern with "an axis orthogonal to the longitudinal axis of the stent" as illustrated below.

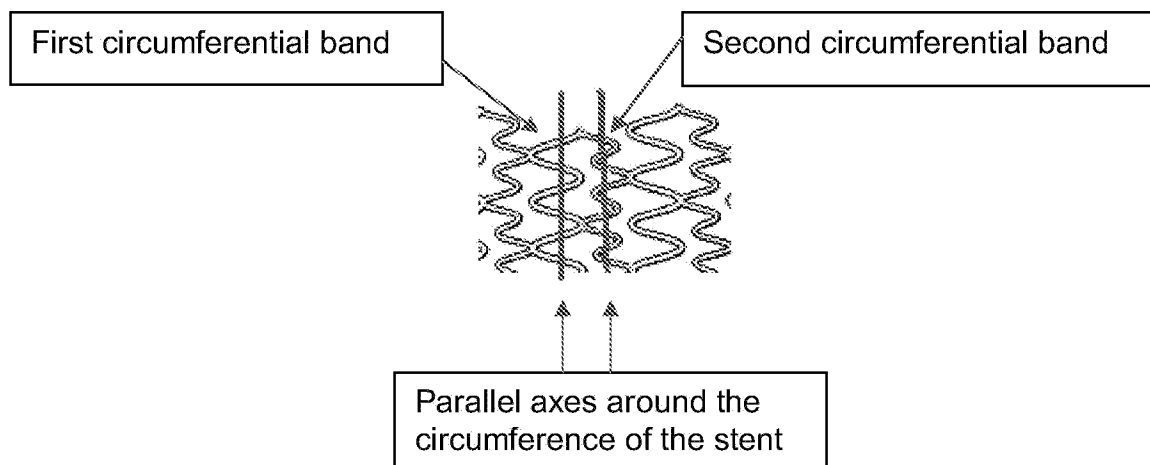


By contrast, the flexible links taught by Fischell have a longitudinal axis parallel to the longitudinal axis of the stent as illustrated below.

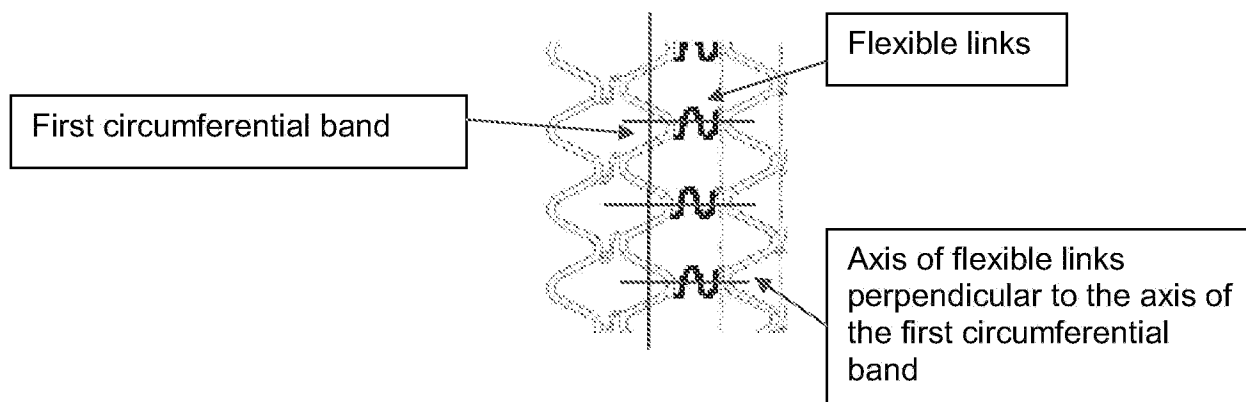


Likewise, following the Examiner's suggestion, Claim 49 has been amended such that the third loop containing section has an axis "parallel to the first and second loop containing sections," said axis being "perpendicular to the longitudinal axis of the stent." As discussed above, a stent has but one longitudinal axis extending through the center of the stent, and along which one axis perpendicular to the longitudinal axis extends around the circumference of the stent. The third loop containing section described by present Claim 49 extends along the axis around the entire circumference of the stent, perpendicular to the longitudinal axis of the stent. By contrast, as discussed above, the flexible links taught by Fischell have a longitudinal axis parallel to the longitudinal axis of the stent.

Lastly, under the present Claim 6, the second circumferential band extends in a continuous pattern of loops around the entire circumference of the stent along an axis that is parallel to the first circumferential band, as illustrated below.

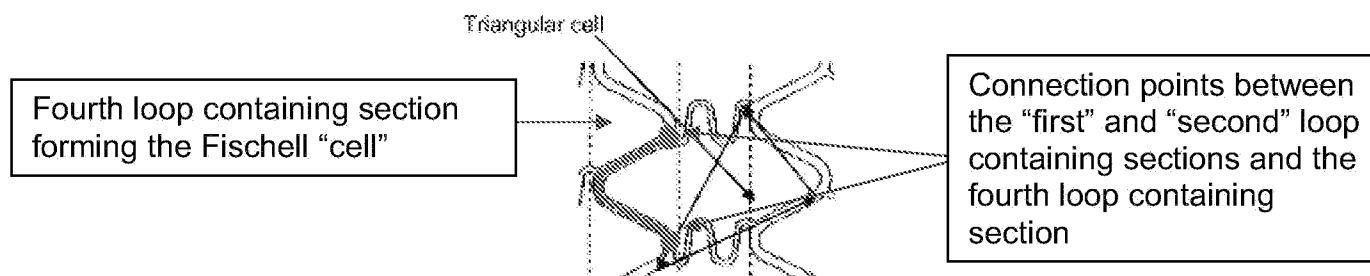


As discussed with the Examiner during the interview of July 23, 2008, these first and second circumferential bands thus follow an axis around the entire circumference of the stent, in contrast with the flexible links of the Fischell stent which, as discussed above, follow an axis parallel to the longitudinal axis of the stent.



The axis of the flexible links taught by Fischell therefore do not follow an axis "parallel to the axis of the first band" as required by present Claim 6. Thus, Fischell does not anticipate Claims 1, 6 or 49, or dependent Claims 42-47.

Regarding Claim 11, the present claim has been amended to recite that the stent is formed entirely of triangular cells, said triangular cells "consisting essentially of three functional loop sections" as described thereunder. By contrast, the Fischell cell identified in the Final Office Action includes a fourth loop containing section as illustrated below. Thus, the Fischell cell does not consist essentially of three functional loop containing sections.



In addition, present Claim 11 requires that the first and second loop containing sections occur at a higher frequency than the third loop containing sections and that these loop containing sections are connected to one another in a specific recited manner, i.e. the first end of the first loop containing section is connected to the second end of the second loop containing section, the first end of the second loop containing section is connected to the first end of the third loop containing section, and the second end of the

third loop containing section is connected to the second end of the first loop containing section. This feature of the instant Claim 11 is not taught or suggested by Fischell.

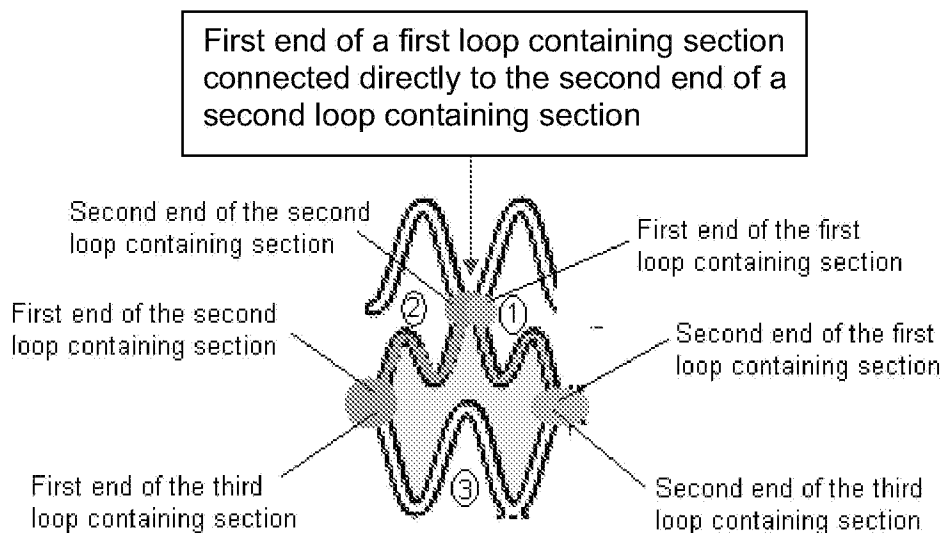
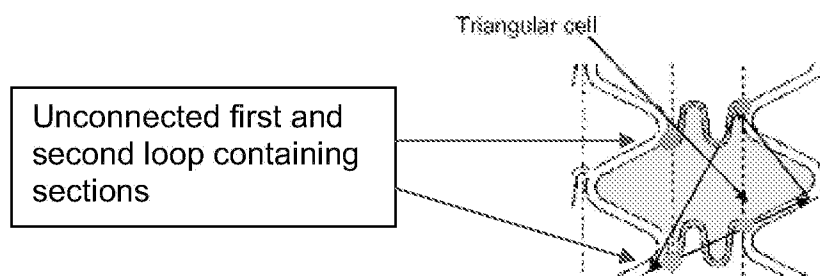


Fig. 3

Because the first and second loop containing sections identified by the Examiner in the Fischell stent are each connected to low frequency loop containing sections at either end, they cannot connect to fulfill this claim limitation of the instant claim.

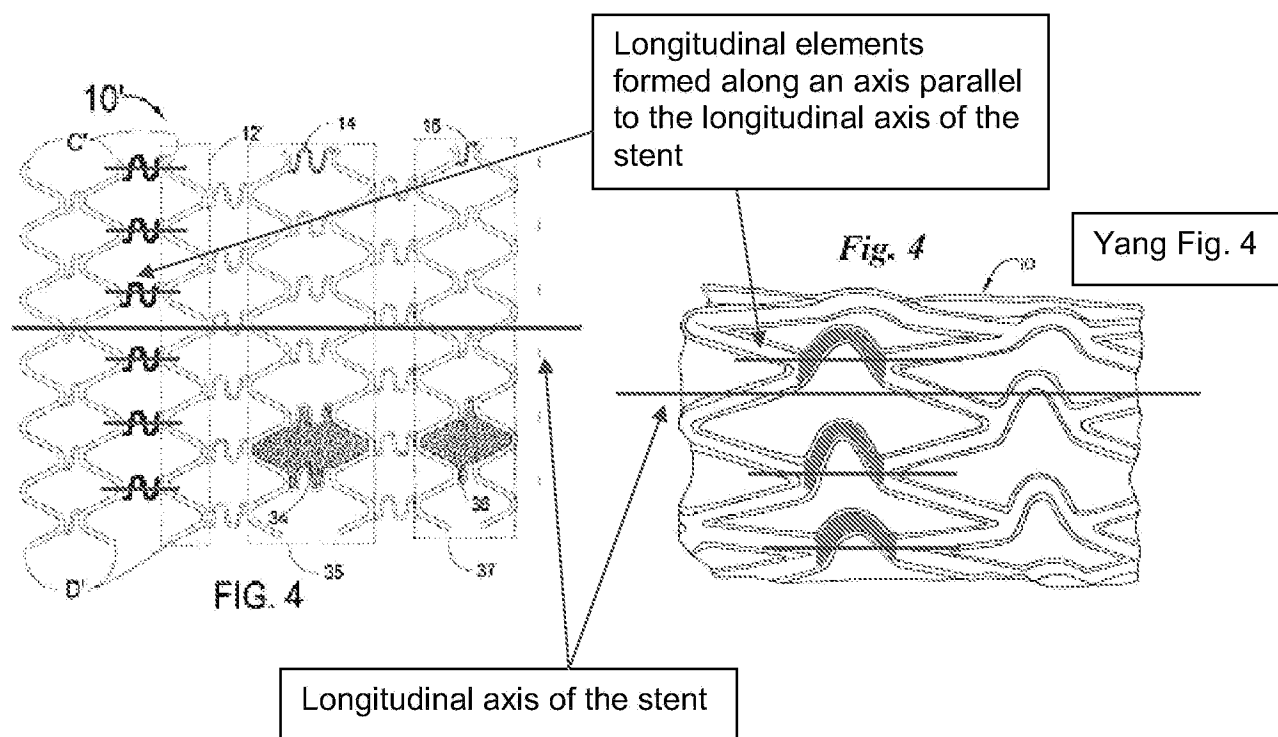


Thus, Fischell does not teach or suggest a stent having exclusively triangular cells or first loop containing sections joined to second loop containing sections as recited in the instant claims. Reconsideration and withdrawal of the rejections under 35 U.S.C. §102(e) as to Claims 1, 6, 11, 42-47 and 49 is respectfully requested for the above reasons.

Response to 35 U.S.C. §103 Rejections Based On Fischell In View Of Yang

Claims 3, 8 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fischell (6,190,403) as applied to Claims 1, 6 and 26, and further in view of Yang et al (6,120,847). Applicants respectfully disagree with this rejection.

As discussed above, Fischell teaches flexible links formed along an axis parallel to the longitudinal axis of the stent, as opposed to the third loop containing sections / second circumferential bands of the present claims that are formed along a continuous axis around the circumference of the stent, which is perpendicular or orthogonal to the longitudinal axis of the stent, as agreed to by the Examiner during the interview of July 23, 2008. Yang teaches a similar pattern of disconnected flexible links that are formed along an axis parallel to the longitudinal axis of the stent, as shown below



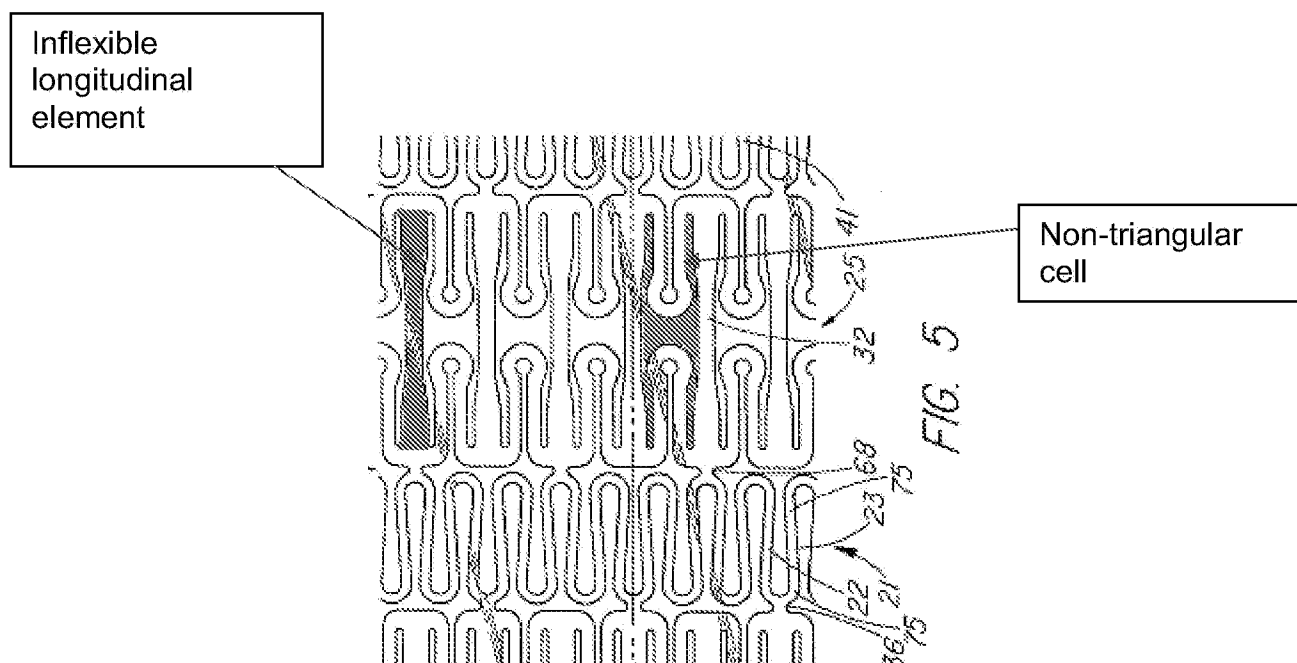
Yang therefore does not remedy this deficiency of Fischell.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) as to Claims 3, 8 and 28 is respectfully requested for the above reasons.

Response to 35 U.S.C. §103 Rejections Based On Berry

Claim 26 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Berry et al (6,231,598). Applicants respectfully disagree with this rejection.

As discussed and agreed to by the Examiner during the interview of July 23, 2008, Claim 26 as amended recites a stent “consisting essentially of a pattern of uniform cells,” which therefore excludes the plurality of non-triangular cells formed by the inflexible longitudinal elements described in Berry.



The Berry stent is therefore not “a pattern of uniform cells” nor does Berry “consist essentially of” the recited features. Rather, the articulated Berry stent teaches away from the stent taught by the present claims. Therefore, Claim 26 is not obvious over Berry.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) as to Claim 26 is respectfully requested for the above reasons.

Response to 35 U.S.C. §112 Rejections

Claims 1, 11, 26 and 49 have been rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner states that the term “the circumferential direction” at line 3 of Claim 1, line 4 of Claim 11 and line 4 of Claim 49 lacks an antecedent basis. However, these claims have been amended to remove the term “the circumferential direction.” The rejection is therefore moot.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §112 as to Claims 1, 11 and 49 is respectfully requested for the above reasons.

CONCLUSION

Based on the foregoing amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections of the pending claims and requests allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-4387, Order No. 92077.003.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-4387, Order No. 92077.003.

Respectfully submitted,
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